S.B.CIVIL WRIT PETITION NO.3670/2004

B.R.Mehta
v.
State of Rajasthan & Anr.

DATE OF ORDER :: 28th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.S.Singhvi, for the petitioner.
Mr. S.S.Ladrecha, Additional Government Advocate.
Mr. Sangeet Lodha, for the respondent.

....

It is contended by counsel for the petitioner that Jaipur Bench of this Court in a similar petition for writ (SBCWP No.6354/2006), decided on 18.1.2007 directed the respondents to continue the employees of the Rajasthan Agricultural Marketing Board upto the age of 60 years i.e. the age of superannuation by virtue of clause 20(2) of the Rajasthan State Agricultural Marketing Board (Service) Byelaws, 1977. It is also pointed out by learned counsel that the judgment aforesaid stood affirmed by a Division Bench of this Court at Jaipur by judgment dated 1.3.2007 (DBCivil Special Appeal (W) No.135/2007) with a modification regarding actual payment of salary for the period the employees did not work due to their retirement at the age of 58 years and the instant matter being similar to the case referred above deserves disposal in same terms.

Counsel for the respondents do not deny about the orders referred above.

I have also examined record of the case and I am satisfied that the controversy involved in this petition for writ is no more res-integra in view of the judgment dated 18.1.2007 in the case of Govind N.Lata v. R.S.Agr.Mar.Board & Anr. (SBCivil Writ Petition No.6354/2006) as modified by Division Bench of this Court in the case of the Rajasthan State Agricultural Marketing Board v. Govind Narain Lata & Anr. (DBCivil Special Appeal (W) No.135/2007).

Accordingly, this petition for writ is allowed in the terms of the judgment dated 18.1.2007 in SBCivil Writ Petition No.6354/2006 as modified by Division Bench by judgment dated 1.3.2007 in DBCivil Special Appeal (W) No.135/2007. The respondents are directed to treat the petitioner in service upto the age of 60 years, however, he shall not be entitled for getting actual payment of wages for the period he did not work with the respondents after acquiring the age of 58 years. The respondents shall not effect any recovery of money from the petitioner that has been paid to him as pension after his retirement on achieving the age of 58 years. The order of restrainment regarding recovery from pension shall not be applicable if that is required to be made under

separate proceedings relating to some disciplinary action.

(GOVIND MATHUR),J.

Kkm/ps.